The Hon'ble Sri Justice D.S.R.Varma

W.P.No.26556 of 1996

Dated:19th July,2006

Between:

Polepaka Sudhakar Rao.

..Petitioner

and

1.Andhra Pradesh Saraswatha Parishath,
Oriental College, Tilak Road, Boggulakunta,
Hyderabad, rep.by its Secretary and others.

..Respondents

The Hon'ble Sri Justice D.S.R.Varma

W.P.No.26556 of 1996

Oral order:-

Heard both sides.

Petitioner seeks a writ of mandamus to declare the action of the respondents in not filing up the posts of Lecturers meant for Scheduled Castes backlog posts and in seeking to fill up the said

posts with the O.C. Candidates without notifying the vacancies as arbitrary and illegal and consequently direct the respondents to consider the case of the petitioner for the post of Lecturer as against the reserved quota of Scheduled Castes Community in the respondent-College forthwith.

Initially, this writ petition was filed as against respondents 1 to 3 only and in W.P.M.P.No.32785 of 1996 this Court granted interim directions on 12.12.1997 directing the 1st respondent to consider the representation, dated 25.9.1996, made by the petitioner for the post of Lecturer. Subsequently, the said interim directions were vacated by this Court on 2.9.1997 in W.V.M.P.No.2445 of 1997. Thereafter, by order dated 24.12.1997, in W.P.M.P.No.25891 of 1997, the Secretary, Department of Higher Education, Government of Andhra Pradesh, Hyderabad, and the Commissioner of College Education, Nampally, Hyderabad, were impleaded as respondents 4 and 5 respectively in this writ petition.

It appears that respondents 1 to 3 are only the representatives of the College and the relief sought for by the petitioner in the writ petition cannot be granted as against respondents 1 to 3 and, precisely, for that reason, respondents 4 and 5, viz., Secretary, Department of Higher Education, Government of Andhra Pradesh, Hyderabad and the Commissioner of College Education, Nampally, Hyderabad, were impleaded as parties in this writ petition at a later point of time with the permission of the Court.

No counter-affidavit has been filed on behalf of respondents 4 and 5. Therefore, the actual position is not forthcoming before this Court.

However, if it were to be true that the backlog vacancies meant for scheduled castes candidates in the 1st respondent-College were not filled up with the Scheduled Castes candidates and if the college fills up the vacancies by O.C.candidates, the same should be viewed seriously, inasmuch as, such a course of action would amount to deprivation to the individuals belonging to the Scheduled Castes of their legitimate right to be considered for appointment under the relevant Rules as against such reserved vacancies.

It appears that the 1st respondent-College also made representations to the Government seeking necessary instructions

in the matter. In fact, the competent authorities under the Andhra Pradesh Education Act have got ample power to issue suitable directions/instructions to the Educational Institutions in the State on any matter, and penal provisions are also incorporated in the Andhra Pradesh Education Act for taking appropriate action as per Rules against the Educational Institutions in case they violate the instructions issued by the Government.

It is rather incomprehensible as to why instructions were not issued by respondents 4 and 5 to the 1st respondent despite repeated representations made by it seeking instructions in the matter.

Hence, having regard to the facts and circumstances, and in order to prevent injustice to the persons belonging to the Scheduled Castes for being considered for appointment as Lecturers in the respondent-College, particularly backlog vacancies, I feel it appropriate to issue a direction to respondents 4 and 5 to consider the representation, dated 25.9.1996, made by the petitioner along with the representations said to have been made by the 1st respondent, and pass appropriate orders thereon. If no such representations are available with respondents 4 and 5, it is always open to respondents 1 to 3 and also to the petitioner to make representation afresh within six weeks from today. The representations shall be considered and disposed of by Respondents 4 and 5 and appropriates shall be passed thereon within a period of three months from today, in accordance with the Rules, and the orders so passed shall be communicated to the representationists.

With the above observations and directions, the writ petition is closed. No costs.

_____

D.S.R.Varma,J

19-7-2006

svr

114

The Hon'ble Sri Justice D.S.R.Varma

W.P.No.26556 of 1996

Dated:19th July,2006